

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : DATE FILED:  
v. : CRIMINAL NO.:  
JEFFREY A. SCHERR : VIOLATION: 18 U.S.C. § 371  
(Conspiracy to defraud healthcare benefit  
program)-1 count

INFORMATION

Count One

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this Information:

THE MEDICARE PROGRAM

1. The Department of Health and Human Services (HHS) was a Department of the United States government with responsibilities under federal law for the funding, administration and supervision of certain health care programs including the "Medicare Program."
2. The Medicare Program was designed to provide medical services, medical equipment and supplies to aged, blind and totally disabled individuals (beneficiaries) who qualified under the Social Security Act.
3. The Medicare Part B program was a federally-funded medical insurance program which provided Medicare insurance benefits for individuals aged sixty-five or older and certain individuals who are disabled or handicapped.
4. The Medicare Part B Program paid for durable medical equipment (DME) and supplies provided to eligible beneficiaries.
5. To be entitled to submit claims to Medicare for equipment or services provided

to Medicare beneficiaries, a supplier had to complete an application which the supplier certified was true, correct and complete. If Medicare approved the supplier's application, the supplier would be issued a Medicare provider number.

6. Suppliers submitted claims for equipment and services provided to Medicare beneficiaries to one of four companies (carriers) that processed claims for the geographic region of the United States in which the beneficiary resided. Carriers are referred to as Regions A (Northeast), B (Midwest), C (Southeast) and D (West). Each regional company established reimbursement rates for particular products based on product costs in that region, and determined standards for establishing the medical necessity of every product distributed to beneficiaries residing in that region.

7. To be reimbursed by Medicare, a supplier had to submit a claim to Medicare which included the supplier's Medicare provider number. Medicare required that all submitted claims contain truthful information, including the identity of the true supplier of goods or services to the beneficiary. Suppliers could use a billing service to submit claims to Medicare, but billing services were required to submit claims naming the actual supplier who provided a product to the beneficiary.

8. Suppliers who were notified by a Medicare carrier that a product was not medically necessary for certain types of patients were not permitted to submit claims to Medicare for that product for that type of patient by using another supplier's Medicare number.

9. Medicare conducted audits of claims in order to determine that supplies were medically necessary and that claims were not fraudulent for some other reason. A supplier

was not permitted to use the supplier number of another company in order to avoid scrutiny or audits by Medicare.

10. Suppliers who disputed a decision regarding payment of claims made by one of the Medicare carriers had to file an appeal to a hearing officer. A supplier was not permitted to use the supplier number of another company or individual to continue to obtain payment for claims it believed might be denied if the supplier utilized its own number.

11. By law and regulation, suppliers who billed Medicare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

#### THE TRICARE PROGRAM

12. The Department of Defense (DOD), a department of the United States government, was responsible for the administration of the Tricare program.

13. The Tricare program paid for hospital services, medical services, home health care, durable medical equipment and supplies and other services to civilian dependants of military personnel and retired members of the military who qualified for participation in the program. The United States government provided the majority of the funding of the Tricare Program.

14. By law and regulation, providers who billed Tricare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

#### DEFENDANT AND OTHER COMPANIES AND INDIVIDUALS

15. West Coast Orthotics (West Coast), located in Mill Valley, California, was a

durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Defendant JEFFREY A. SCHERR was the president of West Coast.

16. L.P. Medical Marketing (L.P. Medical), located in Mill Valley, California, was a company used at various times by defendant JEFFREY A. SCHERR to accept payment for Medicare business.

17. DLS Holdings, d/b/a Intramedical (Intramedical), located in Phoenix, Arizona, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. This company also prepared and submitted bills to Medicare on behalf of other Medicare suppliers. Steven Santostefano, charged elsewhere, was the president of Intramedical. Patrick Schmiederer, charged elsewhere, was the national sales manager of Intramedical.

18. Southwest Automated Voice Com (Southwest Automated), located in Phoenix, Arizona, was a voice mail company. Steven Santostefano was the president of Southwest Automated.

19. Geri-Care Orthotics (Geri-Care), located in Tampa, Florida, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Albert Forcella, charged elsewhere, was the president of Geri-Care. Steven Santostefano at all times shared in the profits of Geri-Care. Patrick Schmiederer, the national sales manager for Intramedical, was also the sales manager for Geri-Care.

20. Gulf Coast Support Surfaces (Gulf Coast), located in Tampa, Florida, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Bradley Buzbee, charged elsewhere, was the president of Gulf Coast.

21. Chosen Care, located in Bensalem, Pennsylvania, was an undercover home health agency run by federal law enforcement special agents.

22. Pioneer Management Group, located in Alexandria, Virginia, was an undercover management company run by federal law enforcement special agents.

### CONSPIRACY

23. From in or about November 1998, until at least in or about October 2000, in the Eastern District of Pennsylvania and elsewhere, defendant

JEFFREY A. SCHERR

conspired and agreed with Steven Santostefano, Albert Forcella, Bradley Buzbee and others known and unknown to the United States Attorney to:

(1) knowingly and willfully offer, pay and cause to be offered and paid remuneration, that is, kickbacks and bribes, to purchase, lease, order, and arrange for and recommend the purchasing, leasing, and ordering from companies for items for which payment was made in whole and in part under Medicare and Tricare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B);

(2) knowingly and willfully execute and attempt to execute a scheme to defraud a health care benefit program, that is, Medicare, and to obtain, by means of materially false pretenses, representations, and promises, money and property owned by, and under the control of, Medicare in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

(3) defraud the United States by impeding, impairing, obstructing and defeating the lawful government functions of the Department of Health and Human Services

and the Department of Defense in verifying the validity of claims submitted to Medicare and Tricare.

#### MANNER AND MEANS

It was a part of the conspiracy that at various times:

24. To obtain payment from Medicare for products supplied by Intramedical and West Coast, to avoid offsets of future Medicare claims, and to avoid Medicare scrutiny or audits, defendant JEFFREY A. SCHERR, Steven Santostefano, Albert Forcella and Bradley Buzbee fraudulently used the Medicare supplier numbers of Geri-Care and Gulf Coast to submit claims to Medicare, knowing that Geri-Care and Gulf Coast were not the suppliers of the products which were billed to Medicare.

25. Defendant JEFFREY A. SCHERR, Steven Santostefano and Albert Forcella split the profits from West Coast's Medicare claims, which had falsely stated that Geri-Care or Gulf Coast was the supplier of those products. Steven Santostefano and Albert Forcella split the profits of Intramedical business that was billed through Geri-Care and Gulf Coast. Steven Santostefano and Albert Forcella paid Bradley Buzbee a monthly fee for the fraudulent use of Gulf Coast's supplier number.

26. At the direction of defendant JEFFREY A. SCHERR, Albert Forcella sent checks for a portion of the profits from West Coast business that had been billed through Geri-Care's and Gulf Coast's supplier number to L.P. Medical.

27. At the direction of Steven Santostefano, Albert Forcella sent checks for the profits from Intramedical and West Coast business that had been billed through Gulf Coast's supplier number to the Southwest Automated account in Arizona. Checks for profits from

Geri-Care business were also sent to the Southwest Automated account.

28. Steven Santostefano wrote checks out of the Southwest Automated account to pay kickbacks for Tricare and Medicare Region A business referred by the undercover company, Chosen Care, in Bensalem, Pennsylvania.

#### OVERT ACTS

In furtherance of this conspiracy the following overt acts, among others, were committed in the Eastern District of Pennsylvania and elsewhere:

1. From in or about November 1998 through in or about November 1999, on at least a monthly basis, defendant JEFFREY A. SCHERR, Albert Forcella and Steven Santostefano caused claims to be submitted to Medicare Region D using the Geri-Care supplier number, knowing that those products had actually been supplied by Intramedical or West Coast.

2. From in or about May 1999 through in or about March 2000, on at least a monthly basis, with the permission of Bradley Buzbee, defendant JEFFREY A. SCHERR, Steven Santostefano and Albert Forcella caused claims to be submitted to Medicare Region D using the Gulf Coast supplier number, knowing that those products had actually been supplied by Intramedical or West Coast.

3. In or about November 1999, Albert Forcella offered to pay kickbacks to the undercover special agent who was acting as president of Chosen Care in exchange for Medicare and Tricare business.

4. On or about February 16, 2000, during a telephone conversation, Steven Santostefano in Phoenix told a person known to the United States Attorney (Person #1) that

Albert Forcella and Steven Santostefano had put \$500,000 of claims to Medicare through Bradley Buzbee's supplier number, and that Steven Santostefano was going to attempt to use other companies to submit claims for defendant JEFFREY A. SCHERR's West Coast claims.

5. On or about February 17, 2000, during a telephone conversation, Steven Santostefano told Person #1 that Medicare had "popped" Bradley Buzbee's supplier number after four months.

6. From on or about August 1, 1999, through on or about August 12, 2000, usually on a monthly basis, Steven Santostefano and Albert Forcella paid Bradley Buzbee approximately \$1,000 per month for the use of Gulf Coast's Medicare supplier number.

7. On or about June 15, 2000, Albert Forcella wire-transferred \$10,000 from Geri-Care's bank account to Steven Santostefano's Southwest Automated account in Phoenix.

8. On or about June 19, 2000, Steven Santostefano caused a check dated June 16, 2000 for \$2,000, drawn of the Southwest Automated account, to be delivered to the undercover agent in Bensalem, Pennsylvania as partial payment owed to the undercover agent for kickbacks for Medicare and Tricare business.

9. On or about August 25, 2000, Steven Santostefano sent a check for \$835.51, drawn on the Southwest Automated account, to the undercover "consultant" in Alexandria, Virginia, for the purpose of having that check forwarded to the undercover agent in Bensalem, Pennsylvania as partial payment for kickbacks for Medicare and Tricare business.

10. On or about October 17, 2000, Steven Santostefano discussed kickback payments for Medicare business during a telephone conversation with the undercover agent in Bensalem, Pennsylvania.

In violation of Title 18, United States Code, Section 371.

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PATRICK L. MEEHAN  
UNITED STATES ATTORNEY